

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HAROLD SALWAY, JR.,

Defendant.

CR 22-50101

FACTUAL BASIS STATEMENT

The Defendant states that the following facts are true, and the parties agree that they establish a factual basis for the offenses to which the Defendant is pleading guilty pursuant to Federal Rule of Criminal Procedure 11(b)(3):

Between June 2020 and June 2022, the defendant, Harold Salway, Jr., purchased at least 43 firearms from various federally licensed firearms dealers in Rapid City, South Dakota, including Cabela's, 1st Stop, Inc., Presidential Pawn, and Runnings. Between June 2020 and June 2022, Salway was a consistent user of marijuana and was using marijuana on a nearly daily basis. Salway would often purchase the firearms knowing they would be transferred to another person or would often trade firearms he had purchased or obtained by other means in exchange for marijuana, firearms, and/or cash.

On June 8, 2022, ATF agents executed a search warrant at Salway's residence. During the search, agents recovered three firearms identified as follows:

1. a Springfield Armory, model XD9, 9x19mm Luger caliber, semi-automatic pistol, bearing serial number US959708;

2. a SIG Sauer Incorporated, model P226, 9x19mm Luger caliber, semi-automatic pistol, bearing serial number U464998; and a
3. a Savage Arms Corporation, model Axis, .22-250 Remington caliber, bolt-action rifle, bearing serial number H896971.

Law enforcement also recovered numerous firearm magazines and rounds of ammunition. Additionally, law enforcement recovered approximately 12 pounds of marijuana, multiple cell phones, scales, and drug paraphernalia, all belonging to Salway. During the search, Salway told agents he had traded firearms in exchange for marijuana and cash in the past. Salway also admitted to using marijuana. Salway knew he was in possession of each of the firearms set out above. At the time he possessed them, Salway knew was a consistent user of marijuana.

The Springfield Armory pistol was manufactured by HS Produkt in Croatia and imported into the United States through the State of Illinois. The SIG Sauer pistol was manufactured in Germany and imported into the United States through the State of New Hampshire. The Savage Arms rifle was manufactured in Massachusetts. Both the pistols and the rifle meet the definition of “firearm” as set out in 18 U.S.C. § 921(a)(3).

Between January 9, 2022, and January 22, 2022, Salway engaged in a conversation with Marshall Gibbons over Facebook. Gibbons initiated the conversation with Salway, asking Salway if he knew anybody that was looking for an AR pistol. Gibbons sent a couple of photographs of an AR pistol with a drum magazine inserted. Salway responded by indicating he had a “draco for

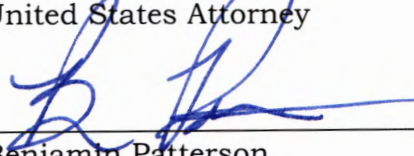
sale” along with magazines for the firearm. The conversation continued over the next several days and Salway and Gibbons eventually came to an agreement. Salway negotiated trading a Mini Draco firearm to Gibbons in exchange for an AR pistol, \$200 in cash, and three ounces of marijuana. The two then set a time and location to meet and Salway provided his CashApp information so Gibbons could transfer the cash. The exchange took place on January 22, 2022. At the time the exchange took place, Salway knew that he would be providing a firearm to Gibbons and receiving three ounces of marijuana in return. On April 19, 2022, Salway and Gibbons engaged in another Facebook conversation wherein Salway traded another firearm to Gibbons in exchange for a firearm and marijuana.

On January 26, 2021, Rapid City police officers responded to a shots fired call for service. During the call for service, officers located several males in a residence and a search warrant was obtained. During the search, officers located a Charter Arms, model Undercover, .38 Special caliber, revolver, bearing serial number 42701, a large quantity of marijuana, money, a digital scale, and a glass pipe. A trace of the firearm showed that it had been purchased by Salway on January 26, 2021, from 1st Stop, Inc., a federally licensed firearms dealer in Rapid City, South Dakota. A copy of the Firearms Transaction Record (ATF Form 4473) that Salway filled out was reviewed by law enforcement. On the form, Salway knowingly falsely reported that he was not an unlawful user of, or addicted to, marijuana or any depressant, stimulant, narcotic drug. By making

this false statement on the application, Salway intended to deceive 1st Stop, Inc., by claiming he was not an unlawful user of marijuana, when in fact, Salway knew he was an unlawful user of marijuana at the time he purchased the Charter Arms revolver.

On September 13, 2022, Rapid City police officers responded to a shots fired call involving that resulted in a deceased male. During the call for service, officers recovered an Inter Arms, model Hellpup, 7.62x39 caliber, semi-automatic pistol, bearing serial number PAC1164642. A trace of the firearm showed that it had been purchased by Salway on March 25, 2022, from 1st Stop, Inc., a federally licensed firearms dealer in Rapid City, South Dakota. A copy of the Firearms Transaction Record (ATF Form 4473) that Salway filled out was reviewed by law enforcement. On the form, Salway knowingly falsely reported that he was not an unlawful user of, or addicted to, marijuana or any depressant, stimulant, narcotic drug. By making this false statement on the application, Salway intended to deceive 1st Stop, Inc., by claiming he was not an unlawful user of marijuana, when in fact, Salway knew he was an unlawful user of marijuana at the time he purchased the Inter Arms pistol.

ALISON J. RAMSELL
United States Attorney



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Assistant United States Attorney
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605-342-7822

Date

5/19/2023

5-4-23
Date

Harold Salway, Jr.
Harold Salway, Jr.
Defendant

5.4.23
Date

Ellery Grey
Lorie Melone
Attorney for Defendant